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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,847	12/09/1999	TOAN TRINH	7114	8139

27752 7590 11/06/2006

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EXAMINER

MOORE, MARGARET G

ART UNIT PAPER NUMBER

1712

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/457,847

Applicant(s)

TRINH ET AL.

Examiner

Margaret G. Moore

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14, 15, 33 to 42, 45, 46, 48 to 50, 56, 60 to 66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 15, 33 to 38, 42, 45, 46, 48 to 50, 56 and 62 to 66 is/are rejected.
- 7) ☒ Claim(s) 39 to 41, 60 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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1. In view of applicants' response, the Examiner has withdrawn the rejection over Vogel in view of Jellinek. Vogel is silent as to a pH range for the composition therein and since the compositions shown by Vogel appear to be inherently acidic, there is nothing that teaches or suggests selecting a pH range as claimed.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14, 15, 33 to 38, 42, 45, 46, 49, 50, 56 and 62 to 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jellinek in view of Vogel et al.

This rejection relies on the rationale of record and as such this will not be repeated. See for instance the rejection in paragraph 5 of the office action dated 5/06/05. Applicants' traversal is not persuasive.

Applicants argue that there is no motivation to combine a composition of Jellinek and a composition of Vogel. This is not persuasive since this is not the basis for the obviousness rejection. The only difference between Jellinek and that claimed is the lack of a teaching of droplet diameter when sprayed. It is the obviousness of using a spray container which results in a droplet size as claimed that is the basis for this combination. As such this rejection is maintained.

4. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jellinek in view of Vogel, as applied to claims 46 and 56 above, and further in view of Davis.

This rejection is also based on rationale of record. As such this will not be repeated. Applicants do not specifically traverse this rejection.

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5. Claims 39 to 41, 60 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

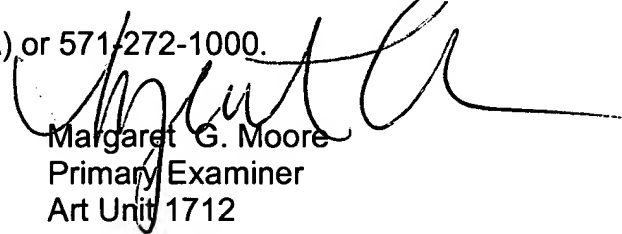
The prior art fails to teach or suggest these limitations. For claim 39, there is no teaching or suggestion of the addition of the particular drying agents claimed. Column 11, lines 40 to 48, which teaches evaporation and adjusting curing time by adjusting the temperature at which the composition cures. There is nothing that suggests adjusting drying rate by the addition of ethanol, propanol or isopropanol in an amount as claimed. For claim 60, there is nothing that would suggest adding a specific antimicrobial agent as claimed to the composition in an amount as claimed. For both claim 39 and 60, the Examiner acknowledges that the specific drying agent or anti-microbial agent may be known in the art, but only in hindsight would it have been obvious to add such a compound, from the vast number of drying agents and antimicrobial agents known, to the composition of Jellinek.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Margaret G. Moore  
Primary Examiner  
Art Unit 1712

mgm  
11/1/06